

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

JULIE RHODES, individually and on
behalf of a class,

Plaintiff,

VS.

ROCKLER RETAIL GROUP, INC.,
doing business as ROCKLER
WOODWORKING AND HARDWARE,
and DOES 1-10,

Defendants.

Case No.: 2007-CV-6385

Chief Judge James Holderman

Presiding Mag. Judge Morton Denlow

**ROCKLER RETAIL GROUP, INC.’S MOTION *INSTANTER* FOR LEAVE TO SUBMIT
SUPPLEMENTAL AUTHORITY IN FURTHER SUPPORT OF MOTION TO DISMISS
OR, IN THE ALTERNATIVE, TO STAY PROCEEDINGS**

Rockler Retail Group, Inc. (“Rockler”), by and through its undersigned counsel, respectfully moves this Court for leave to submit supplemental authority in further support of its Motion to Dismiss or, in the Alternative, to Stay Proceedings. In support, Rockler states as follows:

1. On November 9, 2007, Plaintiff Julie Rhodes filed this putative class action asserting that Rockler violated the Fair and Accurate Credit Transaction Act (“FACTA”), 15 U.S.C. § 1681(g).

2. On February 4, 2008, Rockler filed its Motion to Dismiss or, in the Alternative, to Stay Proceedings. Rockler argued that Plaintiff's complaint should be dismissed because, *inter alia*, further to recent Supreme Court precedent, Plaintiff has not alleged (and could not do so) that Rockler's actions were willful as a matter of law. Alternatively, Rockler requested this Court to stay the proceedings pending forthcoming Congressional clarification of its admittedly ambiguous statute.

3. On March 4, 2008, Plaintiff filed a response to Rockler's Motion.

4. Thereafter, on March 19, 2008, Rockler filed its Reply Brief.

5. After the briefing on Rockler's Motion, the Honorable Lynn N. Hughes, on April 5, 2008, issued an opinion in *Howard v. Hooters of Houston, et al.*, Civ. No. H-07-3399, slip op. (S.D. Tex. April 5, 2008) (the "Decision"), in a case presenting nearly identical facts. By the Decision, Judge Hughes denied plaintiff's motion for class certification and dismissed plaintiff's FACTA case outright.

6. Rockler submits that the Decision would assist this Court in reaching a decision on Rockler's pending Motion.

7. For the Court's convenience, a copy of the Decision is attached hereto as Exhibit A.

WHEREFORE, for the reasons stated above, Rockler Retail Group, Inc. respectfully requests that the Court grant leave to submit the supplemental authority described above *instantly*, and any and all other relief the Court deems just and equitable.

Dated: April 11, 2008

Respectfully submitted,

ROCKLER RETAIL GROUP, INC.

/s/ David S. Almeida

One of Its Attorneys

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Attorneys for Rockler Retail Group, Inc.

CERTIFICATE OF SERVICE

I, David S. Almeida, hereby certify that on April 11, 2008, the foregoing Motion *Instante*r For Leave to File Supplemental Authority in Further Support of Motion to Dismiss, or, in the Alternative, to Stay Proceedings was filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. Parties may access this filing through the Court's electronic filing system.

/s/ David S. Almeida